

No. 9/6/86-6Lab/9385.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Danson Engineers, Yamuna Gasage Unit, Sardana Nagar, Ambala Road, Jagadhri.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 154 of 1986

between

SHRI HEM RAJ, C/O SHRI SURINDER SHARMA, INTUC OFFICE, RAILWAY ROAD,
JAGADHRI AND THE MESSRS DANSON ENGINEERS, YAMUNA GASAGE UNIT,
SARDANA NAGAR, AMBALA ROAD, JAGADHRI.

Present :

Shri Surinder Sharma, for the workman.

None, for the respondent.

AWARD

The Hon'ble Governor of Haryana, in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Hem Raj and Messrs Danson Engineers Yamuna Gasage, Unit, Sardana Nagar, Ambala Road, Jagadhri to this Court. The terms of the reference are as under:—

“Whether the termination of services of Shri Hem Raj, workman, is justified and correct ? If not, to what relief is he entitled?”

Workman through his demand notice alleged that he was in the service of respondent-management as a Packing Helper for the last more than one year. His service were terminated by the respondent-management on 31st March, 1986 in violation of section 25 (F) of Industrial Disputes Act, 1947. Workman prayed for his reinstatement with continuity in service and with full back wages.

Today Shri Surinder Sharma made statement that whereabouts of the workman are not known, he has been informed by co-workers that Shri Hem Raj has since been expired, so he made prayer that the reference, in question, may be filed.

In view of statement of Shri Surinder Sharma, Authorised Representative of the workman the reference is filed since Shri Hem Raj has expired. It shall be taken up if legal heirs of Shri Hem Raj appeared and so desired.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated the 30th September, 1986.

Endst. No. 2420, dated the 30th September, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab/9387.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s. The Indri Cane Grower Society Ltd., Indri, District Karnal.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 125 of 1986

between

SHRI RAGHBIR, SON OF SHRI ANANT RAM, C/O DR. SURINDER KUMAR SHARMA,
INTUC OFFICE, RAILWAY ROAD, JAGADHRI AND THE MANAGEMENT OF THE
MESSRS THE INDRI CANE GROWER SOCIETY LTD., INDRI, DISTRICT KARNAL

Present :—

Shri Surinder Kumar Sharma, for the workman.

Shri Des Raj, for the respondent.

AWARD

The Hon'ble Governor of Haryana, in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947, referred dispute, between Shri Raghbir and Messrs The Indri Cane Grower Society Ltd. Indri, District Karnal to this Court. The terms of the reference are as under:—

“Whether the termination of services of Shri Raghbir, workman is just and correct ? If not, to what relief is he entitled ?”

Workman through his demand notice, dated 17th February, 1986, 4th April, 1986 alleged that he was in the employment of respondent-management since 1st November, 1980. His services were terminated by the respondent-management on 23rd December, 1985 in violation of section 25 (F) of Industrial Disputes Act, 1947. Workman prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management appeared and represented its case through member Shri Des Raj who was authorised by the respondent management,—*vide* resolution, dated 11th August, 1986.

Today the case was fixed for filing statement of claim by the workman. But the parties reached at a compromise. According to that it was agreed upon between the parties that the respondent management has agreed to reinstate the workman with continuity of service but the workman shall not be entitled to the back wages. This compromise Ex-C-1 was tendered today by the parties. So, I hold that the parties have compromised this dispute and the workman has been taken in service with the benefit of continuity in service without back wages, so I pass award regarding the dispute between the parties accordingly.

Dated the 30th September, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2493, dated the 30th September, 1986

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 18th November, 1986

No. 9/8/86-6Lab/9382.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Auto Glide Pvt. Ltd., Plot No. 64, Sector-6, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 185 of 1985

between

SHRI MAHENDER SINGH C/O BHARTIYA MAZDOOR SANGH, VISHAV-
KARMA BHAWAN, FARIDABAD AND THE RESPONDENT-MANAGEMENT
OF M/S AUTO GLIDE PVT. LTD., PLOT NO. 64, SECTOR-6,
FARIDABAD

Present :

Shri B. S. Bhati for the workman.

Shri R. C. Sharma, for the respondent.

AWARD

This reference under section 10 (i) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (herein after referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/2-85/9454—59, dated 12th March, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Mahender Singh, workman and the respondent-management of M/s Auto Glide Pvt. Ltd., Plot No. 64, Sector-6, Faridabad. Accordingly, it has been registered as reference No. 136 of 1985.

2. The claim of Shri Mahender Singh has been that he was appointed by the respondent on 28th June, 1983 as a helper at monthly pay of Rs 385 and on the same day one ESI card was issued to him and all of a sudden on 12th August, 1984 he had become sick and due to that he could not attend to his duties until 30th October, 1984 and on getting medical fitness certificate he had reported on duty on 31st October, 1984, but he was not allowed to resume his duties and even thereafter also. The allegations are that his services have been dispensed with without adopting prescribed procedure and in violation of principles of natural justice. Accordingly request has been made for reinstatement into his job with full back wages and further with continuity of service.

On notice, the respondent appeared and filed written statement contesting the said claim. It has been pointed out that Shri Mahender Singh was appointed only on 7th December, 1983 and his services were terminated on 11th October, 1984 according to the terms and conditions of the appointment letter. Further it is claimed that he was working purely on temporary basis and as such order of termination was quite justified and proper also. On replication the claim as well as allegations have been repeated.

4. On the pleadings of the parties my learned predecessor had framed the following issue on 25th July, 1985.—

- (1) Whether termination of services of Shri Mahender Singh is justified? If not to what relief is he entitled?

Factory Manager Shri Som Nath Grover has appeared as MW-1 and deposed about factual position of service matter. On the other hand there are statements of Mahender Singh, workman and one Raj Pal also. I have heard both the parties as represented above. I have gone through the case file also. My finding is as below:—

5. *Issue No. 1:—* Mahender Singh had made a mention in his demand notice, dated 11th November, 1984, that he was employe as a helper on 28th June, 1983 and on 12th October, 1984 he had become sick and had reported on duty on 31st October, 1984 but he was not allowed to do so. He has reported it,—*vide* his claim statement. However on the other hand the claim of the respondent is that he was appointed only on 7th December, 1983 and his services were terminated on 11th October, 1984 as per terms and conditions of appointment letter. At this stage the serious dispute arises about the date of appointment. On onehand according to Mahender Singh it is 28th June, 1983 while on the other hand according to the respondent it is 7th December, 1983. Notwithstanding the above, it is the respondent who has come forward to state on oath that he was appointed on 28th June, 1983 and he had left the job on 11th October, 1984. It has also been admitted by the respondent that his ESI Card was issued on 28th June, 1983. It is a matter of regret that the respondent has not come forward with clear hands as material facts were concealed in this case. It has been mentioned by it in the written statement that he was appointed on 7th December, 1983 and this date had already been repeated by it in the comments filed in reply to the demand notice of this workman and thereafter good sense had prevailed upon it and then only Shri Som Nath Grover, its manager has stated on oath that he was appointed on 28th June, 1983. In this manner I have no hesitation in adopting 28th June 1983 as the date of his appointment. The contention of respondent that he was appointed only on 7th December, 1983 stands falsified. Further contention of the respondent is that his services were dispensed with on 11th October, 1984 and it has been denied by the workman and there is no reason to disbelieve his statement to that effect. It means that he had not left his job on 11th October, 1983 as alleged by the respondent. The serious contention of the respondent is that the workman was appointed on 7th December, 1983,—*vide* Ex. M-1. There is no dispute that Shri Mohinder Singh has admitted his signatures on the said application form and acceptance thereof but that does not mean that he was not already working. On behalf of the workman it has been contended that he had become sick as per chance and medical certificate was obtained and delivered to the respondent and he was not allowed to resume his duty on 31st October, 1984. This contention may and may not be correct but it is immaterial since it has been admitted by the respondent the services of workman were terminated on 11th October, 1984. If the matter is taken up according to the date supplied by the respondent, the period of his service exceeds more than 240 days and on the face of it he is entitled for the benefits of

continuous service as defined in Section 25-B of the said Act. On behalf of the respondent it has been contended that he was a temporary hand and his services were terminated according to the terms and conditions of appointment letter Ex. M-1. On the other hand it has been contended that this workman could not be ousted from the job as he was in continuous service of more than one year. In this respect reliance has been placed on 1985 (2) Epitomised Legal Judgement (Labour) and Services Page 163. That was a case of monthly rated casual labourers. Inally they were employed as casual labourers as pointed out above. It was held that they were entitled for the benefit of continuous service and their services could not be terminated as it was contrary to Section 25-F of the said Act. This ruling is applicable on the facts of the present case. No notice was issued to the workman to terminate his service and in lieu thereof one month pay was not paid to him. Over and above no compensation was offered to him. The respondent had acted in violation of Section 25-F of the said Act and as such, its act in terminating the services is bad in law and as such that is accordingly quashed. In consequence Shri Mahender Singh is reinstated with full back wages and with continuity of service.

The award is passed accordingly.

Dated the 24th September, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 2415, dated the 15th October, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

The 28th October, 1986

No. 9/6/86-6-Lab/7568. —In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s (i) State Transport Commissioner, Haryana, Chandigarh (ii) G.M., Haryana Roadways, Kaithal :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT
AMBALA

Reference No. 250 of 1985

SHRI RAJINDER KUMAR, S/O SHRI RAMESHWAR DASS, VILLAGE & P.O. BANDRANA, DISTT KURUKSHETRA, TEH. PEHWA AND THE MANAGEMENT OF THE MESSRS STATE TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH. (II) G.M., HARYANA ROADWAYS, KATHAL

Present :—

Shri Rajeshwar Nath for workman.

Shri A.R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,— vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Rajinder Kumar and G.M., Haryana Roadways to this court. The terms of the reference are as under:—

“Whether termination of services of Shri Rajinder Kumar is justified and correct. If not, to what relief is he entitled”

Workman Shri Rajinder Kumar through his demand notice under section 2 (A) of Industrial Disputes Act alleged that he was appointed as a Chowkidar on 25th September, 1979 on daily wages by G.M., Haryana Roadways, Kaithal. He had been serving the respondent management up till 5th January, 1985 and the reafter his services were terminated in violation of section 25 (F) of I.D. Act, 1947. He further prayed that before termination of the services no notice, no pay in lieu of notice period and no retrenchment compensation was paid to him by the Management. He further alleged that Fate Singh, Issam Singh, Bhola Singh who are junior to him have been retained in service. He prayed for his reinstatement with continuity in service and with full back wages, etc.

Respondent-management appeared contested the dispute and contended that Shri Rajinder Kumar s/o Shri Rameshwar Dass was in service of Haryana Roadways, Depot, Kaithal. His service was on contract basis. The service of contract of Rajinder Kumar was not renewed by the respondent-management beyond 4th January, 1985. It was further contended that it is not a case of retrenchment in view of amendment made in the definition of retrenchment under section 2-(00) (bb) of Industrial Disputes Act, 1947 beyond provisions of section 25(F) of I.D. Act are not attracted nor applicable in any respect. It was further contended that the reference is bad workman is not entitled to any relief claimed for.

Workman filed rejoinder through which he controverted the averments made by the respondent-management.

On the pleadings of the parties the following issues were framed for the just decision of this dispute.

Issues:

1. Whether termination order dated 5th January, 1985 is illegal and void, if not its effect.
2. Whether the termination is covered under section 2-(00) (bb) of I.D. Act, 1947, if so its effect? OPM
3. Relief.

I have heard Shri Rajeshwar Nath for workman and Shri A.R. Goyal for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise finding are as under:

Issue No. 1 & 2

Issue No. 1 and 2 both are inter linked issues their findings are connected with each other, so both the issues are taken together for their discussions and findings.

Workman appeared as AW-1. He stated on oath that he had been in the service of respondent-management since 25th September, 1979 as a Chowkidar in the employment of G.M., Haryana Roadways, Depot, Kaithal and worked up to 4th January, 1985. He further stated that G.M. Haryana Roadways, Kaithal before terminating his service did not issue any notice, no pay, in lieu of notice period was paid to him. Nor retrenchment compensation was ever given to him. He also stated that certain junior persons namely Issam Singh, Fate Singh, Bhola Ram have been retained in service by the respondent-management.

In cross examination he stated that from 1979 up till 1985. He had been working continuously in the service of respondent-management without any break. He further stated that he never received any appointment letter nor any termination letter from the respondent-management. It was also stated by him that he is out of job after 4th January, 1985. He prayed for his reinstatement with continuity in service and with full back wages as well as increments.

From the side of respondent-management Shri K.D. Madan appeared as MW-1 he stated that he has brought the record pertaining to Shri Rajinder Kumar. He further stated that Shri Rajinder Kumar was appointed as a Helper on dully wages month by month. Orders of appointment of Shri Rajinder Kumar are Ex-R-1. He further stated that in the order of appointment it was specifically made clear that services of the workman Shri Rajinder Kumar can be terminated at any time without any prior notice or assigning any reason whatsoever. He further stated that month after month fresh order of appointment for a fixed period have been issued to the workman and copy of every such order was sent to the workman. In cross-examination he stated that he cannot say that for how long workman worked as Chowkidar and for how long he remained posted as a Helper. He further stated that the renewal letter of employment of the workman used to be sent to Yard Master in the workshop of the Depot. It was further duty of the Yard Master to deliver such letters to the workman concerned. He cannot say whether these letters of renewed appointment were passed to workman or not. In view of the above evidence after giving thoughtful consideration to the arguments advanced by I.d. A.R., of the parties. I am of the considered view that no doubt by the amendment under section 2-(00) (bb) by way of making insertion is violative of natural principle of justice but since such amendment has been introduced in the definition of retrenchment under section 2-(00). In these circumstances the courts to follow it and cannot travel beyond it. Moreover from the appointment letter Ex-R-1, R-2, R-3 and R-4 it is evident that appointment of the workman was on monthly basis for a fixed period and after 4th January, 1985 it was never renewed, so the service of workman automatically came to an end and it is not an retrenchment. In view of the newly inserted amendment (bb) under section 2-(00) of Industrial Disputes Act which reads that "(bb) termination of service of workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under stipulation in that behalf contained therein".

In these circumstances it is clear that appointment of workman was on monthly basis, in other words for a fixed period and in the last that period expired on 4th January, 1985. After that the employment period of the workman was never renewed by the G.M., Haryana Roadways, so service of the workman automatically came to an

end. So it is not an retrenchment. In view of section 2-(00) (bb) of Industrial Disputes Act, 1947. Accordingly section 25 (F) of Industrial Disputes Act is not applicable. Non renewal of service period of the workman does not amount to termination in other words it is a denial of fresh contract of employment between the parties, so these issues are decided, in favour of, management against workman.

Issue No. 3 Relief

For the foregoing reasons on the basis of my findings on issue No. 1 and 2 the claim of the workman fails. He is not entitled to relief claimed for. I pass award regarding the controversy between the parties accordingly.

26th July, 1986.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 2029, dated 7th August, 1986.

Forwarded (Four Copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I.D. Act, 1947.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6 Lab./7572.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) The State Transport Commissioner, Haryana, Chandigarh (ii) G.M., Haryana Roadways, Kaithal.

IN THE COURT OF SHRI V.P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 156 of 1985.

SHRI JAGDISH KUMAR, WORKMAN AND THE MANAGEMENT OF THE THE STATE TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH (II) G.M., HARYANA ROADWAYS, KAITHAL

Present:—Shri Rajeshwar Nath for the workman.
Shri A.R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Jagdish Kumar, C/o Trade Union Council, Patiala (Punjab) and the The G.M., Haryana Roadways, Kaithal to this Court. The terms of the reference are as under:—

“Whether termination of services of Shri Jagdish Kumar, is justified and correct, if not to what relief is he entitled?”

Workman through his demand notice dated 4th February, 1985 alleged that he was in the employment of the respondent management and served the respondent for 5½ years but his services were terminated in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that workman was employed on daily wages from month to month and his last appointment was up to 31st January, 1985 and thereafter his services automatically came to an end. He was never terminated, in other words he was not given any employment after 31st January, 1985. It was further contended that this is not an retrenchment in view of section 2—(oo)(bb) of Industrial Disputes Act, 1947. It was in fact a contract which is came to an end and section 25 (F) is not applicable in this case.

Workman filed replication through which he controverted the contentions of the respondent-management.

On the pleadings of the parties the following issues were framed for the just decision of this dispute between the parties.

Issues:

1. Whether termination order, dated 1st February, 1985 is illegal, if so its effect ?
2. Relief.

I have heard Shri Rajeshwar Nath for workman and Shri A.R. Goyal for respondent-management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under:—

Issue No. 1:

Workman appeared as AW-1 he stated that he served the respondent management for 5½ years as a Helper. His services were terminated on 31st January, 1985 without serving any notice, without making payment of any pay, in lieu of, notice period nor retrenchment compensation was paid to him.

Management examined Shri K.D. Madan as RW-1 who stated that workman was employed on 1st June, 1982 on daily wages as a Helper,—vide appointment letter Ex-R-1 from 1st June, 1982 to 30th June, 1982 in place of absentee Machanic. Workman Shri Jagdish Kumar worked up to 9th September, 1982 and thereafter he again worked up to 22nd September, 1982. Another copy of his appointment letter is Ex-R-2. It was made clear in his appointment letter that his services are liable to be terminated without any notice and assigning any reason whatsoever. After 31st January, 1985 services of workman were never renewed which means that his service period came to an end.

In view of the above evidence and the newly inserted amendment (bb) under section 2-(oo) makes picture clear that termination of services of workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under stipulation in that behalf contained therein. It was further made clear that with the insertion of the above sub-clause the service of workman automatically came to an end in the circumstances given in the said sub-clause such an action on the part of employer will not amount to retrenchment.

I personally feel that insertion of sub-clause (bb) in section 2 (oo) of the Industrial Dispute Act is violative to the principle of the natural justice. In view of Judicial pronouncement of the Hon'ble Supreme Court in the cases of the workman of Hindustan Steel Ltd., and Another *versus* Hindustan Steel Ltd. and others 1985 LLJ, Supreme Court, page 267 and West-Bengal State Electricity Board *versus* Desh Bandha Gosh and others 1985, LAB IC, 885 and so on.

Keeping in view all the circumstances of this case it is not possible for the undersigned to travel beyond the amendment made in section 2 (oo) (bb) of the act and I have to follow it. As re-appointment of workman Shri Jagdish Kumar was from month to month and finally his renewal of employment came to an end on 31st January, 1985 thereafter it was never renewed, so his services automatically came to an end. It is not retrenchment in the definition of retrenchment incorporated in section 2 of Industrial Disputes Act, 1947. In these circumstances the compliance of section 25(F) of I.D. Act by the employer G.M., Haryana Roadways, Kaithal was not at all mandatory. So the non-renewal of service of workman after 31st January, 1985 by the respondent-management does not amount to termination, it is discontinuation of service of workman by the management is just and correct. So this issue is accordingly decided, in favour of, management against the workman.

Issue No. 2 Relief.

For the foregoing reasons on the basis of my findings on Issue No. 1 the claim of the workman fails. He is not entitled to reinstatement and other reliefs prayed for through this reference, so I pass award regarding the dispute between Jagdish Kumar and Messers G.M., Haryana Roadways, Kaithal Accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated 26th July, 1986.

Endst. No. 2024, Dated 6th August, 1986.

Forwarded (Four Copies), to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.